



## **PENSION BENEFIT GUARANTY CORPORATION**

### **Submission of Information Collections for OMB Review; Comment Request;**

#### **Multiemployer Plan Regulations**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of request for extension of OMB approval.

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**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of collections of information in PBGC's regulations on multiemployer plans. This notice informs the public of PBGC's request and solicits public comment on the collections of information.

**DATES:** Comments must be submitted on or before [insert date 30 days after publication in the Federal Register].

**ADDRESSES:** Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at [OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov) or by fax to 202-395-6974.

A copy of PBGC's request may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026, or by calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.) The request is also available at <http://www.reginfo.gov>.

**FOR FURTHER INFORMATION CONTACT:** Hilary Duke ([duke.hilary@pbgc.gov](mailto:duke.hilary@pbgc.gov)), Attorney, Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC 20005-4026; 202-326-4400, extension 3839.

(TTY and TDD users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400, extension 3839.)

**SUPPLEMENTARY INFORMATION:** An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved and issued control numbers for seven collections of information in PBGC’s regulations on multiemployer plans under the Employee Retirement Income Security Act (ERISA). These collections of information are described below. OMB approvals for these collections of information expire June 30, 2017. PBGC is requesting that OMB extend its approval of these collections of information for three years.

The collections of information for which PBGC is requesting extension of OMB approval are as follows:

**1. Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) (OMB Control Number 1212–0023)**

Sections 4203(f) and 4208(e)(3) of ERISA allow PBGC to permit a multiemployer plan to adopt special rules for determining whether a withdrawal from the plan has occurred, subject to PBGC approval. Section 4203(f) further provides that the regulations may permit use of special rules (1) only in industries that PBGC finds have appropriate characteristics and (2) only in instances where PBGC determines that use of such rules will not pose a significant risk to the multiemployer insurance system administered by PBGC.

PBGC’s regulation on Extension of Special Withdrawal Liability Rules (29 CFR part 4203) specifies the information that a plan that adopts special rules must submit to PBGC about the rules, the plan, and the industry in which the plan operates. PBGC uses the

information to determine whether the rules are appropriate for the industry in which the plan functions and do not pose a significant risk to the insurance system.

PBGC estimates that at most one plan sponsor submits a request each year under this regulation. The estimated annual burden of the collection of information is two hours and \$5,000.

## **2. Variances for Sale of Assets (29 CFR Part 4204) (OMB Control Number 1212-0021)**

If an employer's covered operations or contribution obligation under a plan ceases, the employer must generally pay withdrawal liability to the plan. Section 4204 of ERISA provides an exception, under certain conditions, where the cessation results from a sale of assets. Among other things, the buyer must furnish a bond or escrow, and the sale contract must provide for secondary liability of the seller.

PBGC's regulation on Variances for Sale of Assets (29 CFR part 4204) establishes general variances (rules for avoiding the bond/escrow and sale-contract requirements) and authorizes plans to determine whether the variances apply in particular cases. It also allows buyers and sellers to request individual variances from PBGC. Plans and PBGC use the information to determine whether employers qualify for variances. PBGC estimates that each year, 100 employers submit, and 100 plans respond to, variance requests under the regulation, and one employer submits a variance request to PBGC. The estimated annual burden of the collection of information is 1,050 hours and \$501,000.

**3. Reduction or Waiver of Complete Withdrawal Liability (29 CFR Part 4207)**  
**(OMB Control Number 1212-0044)**

Section 4207 of ERISA allows PBGC to provide for abatement of an employer's complete withdrawal liability, and for plan adoption of alternative abatement rules, where appropriate.

Under PBGC's regulation on Reduction or Waiver of Complete Withdrawal Liability (29 CFR part 4207), an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, at most one employer submits, and one plan responds to, an application for abatement of complete withdrawal liability, and no plan sponsors request approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 0.5 hours and \$400.

**4. Reduction or Waiver of Partial Withdrawal Liability (29 CFR Part 4208) (OMB Control Number 1212–0039)**

Section 4208 of ERISA provides for abatement, in certain circumstances, of an employer's partial withdrawal liability and authorizes PBGC to issue additional partial withdrawal liability abatement rules.

Under PBGC's regulation on Reduction or Waiver of Partial Withdrawal Liability (29 CFR part 4208), an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, at most one employer submits, and one plan responds to, an application for abatement of partial withdrawal liability and no plan sponsors request approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 0.50 hours and \$400.

**5. Allocating Unfunded Vested Benefits to Withdrawing Employers (29 CFR Part 4211) (OMB Control Number 1212–0035)**

Section 4211(c)(5)(A) of ERISA requires PBGC to prescribe how plans can, with PBGC approval, change the way they allocate unfunded vested benefits to withdrawing employers for purposes of calculating withdrawal liability.

PBGC’s regulation on Allocating Unfunded Vested Benefits to Withdrawing Employers (29 CFR part 4211) prescribes the information that must be submitted to PBGC by a plan seeking such approval. PBGC uses the information to determine how the amendment changes the way the plan allocates unfunded vested benefits and how it will affect the risk of loss to plan participants and PBGC.

PBGC estimates that 10 plan sponsors submit approval requests each year under this regulation. The estimated annual burden of the collection of information is 100 hours and \$100,000.

**6. Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR Part 4219) (OMB Control Number 1212–0034)**

Section 4219(c)(1)(D) of ERISA requires that PBGC prescribe regulations for the allocation of a plan’s total unfunded vested benefits in the event of a “mass withdrawal.” A mass withdrawal occurs in two situations: the termination of a plan by the withdrawal of every employer from the plan and the withdrawal of substantially all employers from the plan pursuant to an agreement or arrangement to withdraw. ERISA section 4209(c) deals with an employer’s liability for de minimis amounts if substantially all employers withdraw, regardless of the occurrence of a mass withdrawal.

The reporting requirements in PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) give employers notice and advise them of their rights and liabilities if there is a mass withdrawal or if substantially all employers withdraw. The reporting requirements also provide notice to PBGC so that it can monitor the plan, and they help PBGC assess the possible impact of a withdrawal event on participants and the multiemployer plan insurance program.

PBGC estimates that each year there are six mass withdrawals and three withdrawals in which substantially all employers withdraw. The plan sponsor of a plan subject to a withdrawal covered by the regulation provides notices of the withdrawal to PBGC and to employers covered by the plan, liability assessments to the employers, and a certification to PBGC that assessments have been made. (For a mass withdrawal, there are two assessments and two certifications that deal with two different types of liability. For a withdrawal in which substantially all employers withdraw, there is one assessment and one certification (combined with the withdrawal notice to PBGC).) The estimated annual burden of the collection of information is 45 hours and \$132,000.

## **7. Procedures for PBGC Approval of Plan Amendments (29 CFR Part 4220)**

**(OMB Control Number 1212-0031)**

Under section 4220 of ERISA, a plan may within certain limits adopt special plan rules regarding when a withdrawal from the plan occurs and how the withdrawing employer's withdrawal liability is determined. Any such special rule is effective only if, within 90 days after receiving notice and a copy of the rule, PBGC either approves or fails to disapprove the rule.

PBGC's regulation on Procedures for PBGC Approval of Plan Amendments (29 CFR part 4220) provides rules for requesting PBGC's approval of an amendment. PBGC needs the

required information to identify the plan, evaluate the risk of loss, if any, posed by the plan amendment, and determine whether to approve or disapprove the amendment.

PBGC estimates that at most one plan sponsor submits an approval request per year under this regulation. The estimated annual burden of the collection of information is 0.5 hours and \$5,000 dollars.

Issued in Washington, DC.

**Deborah Chase Murphy**

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